

Before the  
Administrative Hearing Commission  
State of Missouri



STATE COMMITTEE FOR  
SOCIAL WORKERS

Petitioner,

v.

ABDULLAH JAMAAL M. ALI,

Respondent.

No. 13-0264 SW

**DECISION**

Petitioner State Committee for Social Workers has cause to discipline Respondent Abdullah Jamaal M. Ali's clinical social worker license.

**Procedure**

The Committee filed its complaint on February 14, 2013 and Mr. Ali answered on August 26, 2013. The Committee then filed a motion for summary decision on September 6, 2013. We notified Mr. Ali that he should file any response no later than September 23, 2013. He filed nothing.

Under 1 CSR 15-3.446(6)(A)<sup>1</sup>, we may grant summary decision if a party establishes facts that entitle the party to a favorable decision and no party genuinely disputes such facts.

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<sup>1</sup> References to "CSR" are to the Missouri Code of State Regulations, as current with amendments included in the Missouri Register through the most recent update.

Those facts may be established by stipulations, pleading of the adverse party, or other evidence admissible under the law. 1 CSR 15-3.446(6)(B). The following facts are undisputed and drawn from the certified documents attached to the Committee's motion for summary decision, and Mr. Ali's answer.

### **Findings of Fact**

1. Abdullah Jamaal M. Ali is licensed by the State Committee for Social Workers as a clinical social worker. His license was current and active at all times relevant to this proceeding.

2. Mr. Ali billed the Missouri Medicaid program for services he provided as a licensed clinical social worker.

3. On November 7, 2008, Mr. Ali submitted claims for payment to the Missouri Medicaid Program representing that he provided health care services to certain Medicaid recipients. Mr. Ali knew those claims were false when he made them.

4. Between January 21, 2009, and January 20, 2011, Mr. Ali submitted claims for payment to the Missouri Medicaid Program representing that he provided mental health care services to certain Medicaid recipients. Mr. Ali knew those claims were false when he made them.

5. Between July 10, 2009, and January 21, 2011, Mr. Ali submitted claims for payment to the Missouri Medicaid Program representing that he provided mental health care services to certain Medicaid recipients. Mr. Ali knew those claims were false when he made them.

6. Based on his submission of the claims described above, Mr. Ali pled guilty to three, class C felony counts of Medicaid fraud under § 191.905.1, RSMo (Cum. Supp. 2007), on June 11, 2011, in the St. Charles County Circuit Court.

7. Mr. Ali was sentenced on June 11, 2011, and is serving a five-year term in the custody of the Missouri Department of Corrections.

### **Conclusions of Law**

We have jurisdiction. § 337.630.2 and 621.045, RSMo.<sup>2</sup>

The Committee is responsible for the licensure and discipline of clinical social workers. §§ 337.612 and 337.630. It bears the burden of proving that cause for discipline exists, § 337.630.2, and must do so by a preponderance of the evidence, *see Kerwin v. Mo. Dental Bd.*, 375 S.W.3d 219, 229-230 (Mo. App. W.D. 2012) (dental licensing board demonstrated “cause” to discipline by showing preponderance of evidence). A preponderance of the evidence is evidence showing, as a whole, that “the fact to be proved [is] more probable than not.” *Id.* at 230 (*quoting State Bd. of Nursing v. Berry*, 32 S.W.3d 638, 642 (Mo.App. W.D. 2000)).

Here, the Committee alleges cause exists to discipline Mr. Ali under six subdivisions of § 337.630.2:

The committee may cause a complaint to be filed with the administrative hearing commission as provided by Chapter 621 against any holder of any license required by sections 337.600 to 337.689 or any person who has failed to renew or has surrendered the person’s license for any one or any combination of the following causes:

\* \* \*

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of a social worker licensed under this chapter; for any offense an essential element of which is fraud, dishonesty or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

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<sup>2</sup> References to RSMo are to the Revised Statutes of Missouri (Supp. 2012), unless otherwise noted.

\* \* \*

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a social worker licensed pursuant to this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provisions of sections 337.600 to 337.689, or of any lawful rule or regulation adopted pursuant to sections 337.600 to 337.689;

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(13) Violation of any professional trust or confidence;

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(15) Being guilty of unethical conduct as defined in the ethical standards for clinical social workers adopted by the committee by rule and filed with the secretary of state.

We address the subdivisions in turn.

**A. Section 337.630.2(2)**

When a licensee has entered a guilty plea, § 337.630.2(2) provides for discipline under three separate scenarios: when the offense is reasonably related to the qualifications, functions or duties of a social worker; for any offense an essential element of which is fraud, dishonesty or an act of violence; or for any offense involving moral turpitude.

Mr. Ali pled guilty to three counts of Medicaid fraud, and the Committee argues discipline is appropriate under all three scenarios. We agree.

**1. Mr. Ali's crimes are reasonably related to his occupation.**

Mr. Ali pled guilty to three violations of § 191.905.1, which provided:

No health care provider shall knowingly make or cause to be made a false statement or false representation of a material fact in order to receive a health care payment, including but not limited to:

\* \* \*

(4) Knowingly presenting a claim to a health care payer that falsely indicates that any particular health care was provided to a person or persons, if in fact health care of lesser value than that described in the claim was provided....

He is a health care worker, specifically, a clinical social worker. “Clinical social work” is statutorily defined as:

the application of social work theory, knowledge, values, methods, principles, and techniques of case work, group work, client-centered advocacy, community organization, administration, planning, evaluation, consultation, research, psychotherapy and counseling methods and techniques to persons, families and groups in assessment, diagnosis, treatment, prevention and amelioration of mental and emotional conditions[.]

§ 337.600(2).

Mr. Ali billed the Medicaid Program for health care services he did not provide. Providing health care services, and then billing to obtain payment for those services, is reasonably related to the practice of clinical social work. Submitting fraudulent claims for such services is likewise reasonably related.

## **2. Fraud and dishonesty are essential elements of Mr. Ali’s crimes.**

Discipline under § 337.630.2(2) is appropriate when the licensee pleads guilty to an offense with an essential element of fraud, dishonesty or an act of violence.

An essential element of a crime is one that must be proved in every case. *State ex rel. Atkins v. Mo. Bd. of Accountancy*, 351 S.W.2d 483, 485 (Mo. App. K.C.D. 1961). Fraud is an intentional perversion of the truth to induce another to act in reliance upon it. *Hernandez v. State Bd. of Regis’n for Healing Arts*, 936 S.W.2d 894, 899 n.2 (Mo. App. W.D. 1997). Fraud always includes dishonesty, which is the “disposition to defraud, deceive, or betray.” WEBSTER’S THIRD NEW INT’L DICTIONARY UNABRIDGED 650 (1986).

Violation of § 191.905.1 requires, in relevant part, proof that the health care provider knowingly made a false statement, of material fact, to receive a health care payment, when the claim falsely indicated more care was provided than actually was provided. The crime contains the essential element of fraud, and therefore dishonesty, inasmuch as it requires proof of the intentional perversion of the truth to induce another act in reliance upon it.

### **3. Mr. Ali committed crimes of moral turpitude.**

Section 337.630.2(2) does not define “moral turpitude,” but the concept exists in other disciplinary contexts and has been examined by Missouri courts. For example, in attorney disciplinary cases, the Supreme Court has “long defined moral turpitude as ‘baseness, vileness, or depravity’ or acts ‘contrary to justice, honesty, modesty or good morals.’” *In re Duncan*, 844 S.W.3d 443, 444 (Mo. 1993) (internal citations and quotations omitted). *See also Brehe v. Mo. Dep’t of Elem. and Secondary Educ.*, 213 S.W.3d 720, 725 (Mo. App. W.D. 2007) (same definition used in discipline of teaching certificate).

Not all criminal acts are acts of moral turpitude. *Brehe*, 213 S.W.3d at 725. Missouri courts have examined several types of criminal acts in license discipline cases and held that certain ones always constitute acts of moral turpitude, others may, and some never do. In *Brehe*, the court explained there are three categories of crimes:

1. crimes that necessarily involve moral turpitude, such as fraud (so-called “Category 1” crimes);
2. crimes “so obviously petty that conviction carries no suggestion of moral turpitude,” such as illegal parking (“Category 2” crimes); and
3. crimes that “may be saturated with moral turpitude,” yet do not necessarily involve it, such as willful failure to pay income tax or refusal to answer questions before a congressional committee (“Category 3” crimes).

213 S.W.3d at 725 (*quoting Twentieth Century Fox Film Corp. v. Lardner*, 216 F.2d 844, 852 (9<sup>th</sup> Cir. 1954)). While Category 3 crimes require inquiry into the circumstances, crimes such as

murder, rape, and fraud fall into Category 1 because they are invariably regarded as crimes of moral turpitude. *Brehe*, 213 S.W.3d at 725.

As discussed above, Mr. Ali's crimes all involved fraud. They are Category 1 crimes and therefore necessarily involve moral turpitude.

In view of the foregoing, cause exists to discipline Mr. Ali's license under § 337.630.2(2).

**B. Section 337.630.2(4)**

Subdivision (4) provides for discipline when a licensee obtains or attempts to obtain compensation by fraud. As discussed above, Mr. Ali submitted fraudulent claims for payment to the Medicaid Program, and pled guilty to three violations of § 191.905.1, crimes involving the essential element of fraud. He therefore obtained or attempted to obtain compensation by fraud.

Cause exists under § 337.630.2(4).

**C. Section 337.630.2(5)**

Subdivision (5) provides for discipline for "misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a social worker[.]"

As discussed above, Mr. Ali submitted fraudulent claims for payment to the Medicaid Program, and pled guilty to three violations of § 191.905.1, crimes involving the essential element of fraud, and therefore, dishonesty. We likewise conclude his crimes involved misconduct and misrepresentation. And he committed the crimes in his performance of the duties of a clinical social worker.

Cause exists under § 337.630.2(5).

**D. Section 337.630.2(6) and (15)**

Subdivision (6) provides for discipline for the violation of "any lawful rule or regulation adopted pursuant to sections 337.600 to 337.689." Subdivision (15) provides for discipline when

the licensee is “guilty of unethical conduct as defined in the ethical standards for clinical social workers adopted by the committee by rule and filed with the secretary of state.”

Regulation 20 CSR 2263-3.010(1) generally provides that “the ethical standards/disciplinary rules for members of the [clinical social worker] profession...are mandatory. The failure of a member of the profession to abide by any ethical standard/disciplinary rule in...[Chapter 3, Title 20, Division 2263 of the Code of State Regulations] shall constitute unethical conduct and be grounds for disciplinary proceedings.” The Committee alleges Mr. Ali violated two such regulations:

- 20 CSR 2263-3.020(2): “No member of the profession shall... (C) Engage in conduct which is dishonest, deceitful, or fraudulent; [or] (D) Allow the pursuit of financial gain or other personal benefit to interfere with the exercise of sound professional judgment or skills[.]”
- 20 CSR 2263-3.080(1): “A member of the profession shall not ... (B) [e]ngage in fraud or misrepresentation[.]” [Emphasis added.]

We agree that Mr. Ali violated these two ethical standards. As discussed above, his conduct constituted fraud and involved dishonesty, the definition of which includes deceit, and misrepresentation. We also have little difficulty concluding that he allowed his pursuit of financial gain to interfere with his professional judgment when he submitted the fraudulent claims for payment of his services.

Cause exists under § 337.630.2(6) and (15), because Mr. Ali violated 20 CSR 2263-3.020(2) and 20 CSR 2263-3.080(1).

#### **E. Section 337.630.2(13)**

Subdivision (13) allows discipline for violation of a professional trust or confidence. The phrase “professional trust or confidence” is not defined for purposes of § 337.630.2(13), or in



any other statutes dealing with professional licensing. Absent a statutory definition, we rely on the plain meaning of words found in the dictionary. *E&B Granite, Inc. v. Dir. of Revenue*, 331 S.W.3d 314, 318 (Mo. banc 2011). The dictionary definition of “professional” is:

of, relating to, or characteristic of a profession or calling...[;]... engaged in one of the learned professions or in an occupation requiring a high level of training and proficiency...[; and]...characterized or conforming to the technical or ethical standards of a profession or an occupation....

WEBSTER’S THIRD NEW INT’L DICTIONARY 1811. “Trust” is “assured reliance on some person or thing [;] a confident dependence on the character, ability, strength, or truth of someone or something ... .” *Id.* at 2456. “Confidence” is a synonym for “trust.” *Id.* at 475, 2456. Trust “implies an assured attitude toward another which may rest on blended evidence of experience and more subjective grounds such as knowledge, affection, admiration, respect, or reverence[.]” *Id.* Confidence “may indicate a feeling of sureness about another that is based on experience and evidence without strong effect of the subjective[.]” *Id.* at 475.

Thus, professional trust or confidence is assured reliance on a professional’s credentials and expertise. Implicit in the concept of professional trust or confidence is the assurance that a person holding a professional license will not commit acts of fraud in the course of practicing under such professional license.

Mr. Ali submitted fraudulent claims for payment for his services, and so breached his duty of professional trust or confidence.

Cause exists under § 337.630.2(13).

### **Summary**

Mr. Ali's licensed clinical social worker license is subject to discipline under § 337.630.2(2), (4), (5), (6), (13), and (15).

SO ORDERED on October 17, 2013.

\s\ Alana M. Barragán-Scott  
ALANA M. BARRAGÁN-SCOTT  
Commissioner